

S.B.CIVIL WRIT PETITION NO.615/2005

Yadunandan Gaur
V.
State of Rajasthan & Ors.

Date of Order :: 13th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Saluja, for the petitioner.
Mr. Shyam Ladrecha, Addl.G.A.

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The petitioner is holding the post of Junior Engineer with Municipal Council, Udaipur and is having an avenue for promotion to the post of Assistant Engineer (Electrical) in accordance with the Rajasthan Municipalities Service Rules, 1963 (hereinafter referred to as "the Rules of 1963"). It is stated at bar by counsel for the petitioner that presently the petitioner is holding the post of Assistant Engineer (Electrical) officiating, however, his grievance is that the respondents are neither determining available posts of Assistant Engineer (Electrical) in accordance with the Rules of 1963 nor making regular promotions to that post.

It is urged by counsel for the petitioner that from last about 14-15 years the respondents are making appointment to the post of Assistant Engineer (Electrical) either on officiating or in adhoc capacity and that is effecting his rights adversely. The petitioner is of about 52 years of age and he is

waiting for regular promotion from last number of years but only because of inaction on part of the respondents his candidature for the purpose of promotion in accordance with the Rules of 1963 is not considered.

A reply to the writ petition has been filed on behalf of the respondents admitting that a avenue for promotion to the post of Assistant Engineer (Electrical) is available to the Junior Engineers working in various municipalities and the criteria for that is seniority-cum-merit. No reason in reply to the writ petition is given as to why regular promotions have not been made to the post of Assistant Engineer (Electrical) from last number of years. Counsel for the respondents is not aware that when last promotions in accordance with the Rules of 1963 were made to the post of Assistant Engineer (Electrical), however, it is stated by counsel for the petitioner that since 1992 no such promotions have been made.

It is really surprising that the respondents have not made regular promotions to the post of Assistant Engineer (Electrical) from last about 1½ decades and are making appointment to the post concerned either in officiating capacity or by making adhoc appointments. Such adhocism hampers not only efficiency of the persons eligible to be promoted but also effects the service that is required to be

rendered by a public body like municipal council. The petitioner being a Junior Engineer is having a valuable right under the Rules of 1963 to be considered for promotion as Assistant Engineer (Electrical). The non consideration merely on count of inaction on part of the respondents is highly unjust and arbitrary.

In view of it this petition for writ is disposed of with a direction to the respondents to determine the vacancies pertaining to the post of Assistant Engineer (Electrical) under promotion quota in accordance with the Rules of 1963 and then to initiate process of consideration for promotion to the post referred above. The entire process should be completed within a period of six months from today.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.